

<b>NEVADA DEPARTMENT OF CORRECTIONS</b>	<b>SERIES 300 PERSONNEL</b>	<b>SUPERSEDES: AR 341 IB 94-23 (03/11/94)</b>
<b>ADMINISTRATIVE REGULATIONS MANUAL</b>	<b>ADMINISTRATIVE REGULATION 349 EMPLOYEE/APPLICANT ALCOHOL AND DRUG TESTING TEMP</b>	<b>EFFECTIVE DATE: 07/20/03</b>

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	<u>MANDATORY REVIEW DATE</u>	<u>07/20/04</u>

### PURPOSE

To comply with the State of Nevada Alcohol and Drug-Free Workplace Policy.

To establish a policy to ensure employees do not report for work in an impaired condition or consume drugs or alcohol while on duty.

To establish procedures for alcohol and drug testing of employees and applicants, on a pre-hire and for-cause basis.

### AUTHORITY

NRS 284.406  
NRS 284.4061  
NRS 284.4062  
NRS 284.4063  
NRS 284.4064  
NRS 284.4065

NRS 284.4066  
NRS 284.4067  
NRS 284.4068  
NRS 284.4069  
NRS 284.407  
NAC 284.880 – 284.894

## **RESPONSIBILITY**

It shall be the responsibility of all Department employees to comply with this regulation.

It shall be the responsibility of the shift supervisor, warden, division head, and appointing authority to ensure employees within their chain of command do not violate the provisions of this regulation.

It shall be the responsibility of the Department Personnel Division to maintain alcohol/drug testing records.

## **DEFINITIONS**

**APPLICANT** – For purposes of this regulation, a person submitting an application and being offered a position which has been designated as affecting public safety.

**APPOINTING AUTHORITIES** – Individuals to whom the Director has delegated authority to recommend and implement personnel actions. Appointing authorities may include Assistant Directors, Medical Director, Wardens, and Administrator Mental Health and Program Services and Division Heads.

**DEPARTMENT** – The Nevada Department of Corrections.

**DEPARTMENT PERSONNEL DIVISION** – The Personnel Division within the Nevada Department of Corrections.

**DEPARTMENT PERSONNEL OFFICER** – The administrative officer in charge of the Department's Personnel Division.

**DIVISION HEAD** – Those individuals responsible for the major divisions of the Department, such as Personnel; EEO and Professional Development; Inmate Services; Fiscal; Inspector General; Procurement; Accounting; Offender Management; Stores; and Medical.

**EMPLOYEE** – A person legally holding a position with the Department in the public service as defined in NRS 284.015.

**SCREENING TEST** - A test of a person's breath or blood to detect the general presence of alcohol; or, urine to detect the general presence of a controlled substance or any other drug.

**SHIFT SUPERVISOR** – An individual supervisory employee of the Department that is responsible for providing supervision to other supervisors and employees of an assigned shift or tour of duty within an institution, facility and/or office of the Department.

**WARDEN** – The administrative officer in charge of an institution of the Department.

## **APPLICABILITY**

This regulation applies to all employees of the Department of Corrections. It shall also apply to applicants for positions that are designated as affecting public safety.

## **PROCEDURES**

### **349.01 OVERVIEW OF ALCOHOL AND DRUG TESTING PROGRAM**

1.1 An employee who consumes or is under the influence of alcohol or who possesses, consumes or is under the influence of a controlled substance is subject to disciplinary action. **(3-4061)**

1.2 An appointing authority may request that an employee submit to a screening test when there is a reasonable belief, based on objective facts that the employee is under the influence of alcohol and/or a controlled substance.

1.3 An employee who refuses a test for the presence of alcohol or a controlled substance is subject to dismissal.

1.4 Applicants in positions designated as affecting public safety must be tested and the hiring of an applicant is expressly prohibited unless the applicant submits to a screening test.

1.4.1 The positions affected by this designation can be found as an attachment to this administrative regulation, as Classes Approved For Applicant Drug Testing.

1.5 The contracted medical laboratory shall handle the testing for controlled substances.

1.6 A breath test for the presence of alcohol shall be conducted.

1.7 An employee who tests positive the first time in a screening test for alcohol or drugs who has committed no other acts for which he is subject to termination must be formally referred to an employee assistance program for evaluation, and is subject to disciplinary action. **(3-4061)**

1.7.1 An employee who fails to accept such a referral or fails to complete such a program successfully is subject to further disciplinary action.

1.8 The Department may summarily dismiss an employee who, within a period of 5 years, commits a second act.

1.9 Should a supervisor suspect a contract employee is under the influence while on duty, the supervisor must contact the contract employer.

### **349.02 DRUG TESTING PROCEDURES FOR APPLICANTS**

1.1 Notice of the provisions of NRS 284.4066 must be posted on the State of Nevada job announcement or be given to an applicant at or before the time of application.

1.2 Applicants shall submit to a screening test to detect the general presence of a controlled substance unless they are currently employed in a designated public safety position at the time of application.

1.2.1 Only applicants to which a job offer is extended are tested.

1.2.2 The Department must not hire an applicant until passage of the screening test.

1.3 Upon completion of the interview process, the Warden or Division Head must forward the appointment packet to the Department Personnel Division.

1.3.1 Pursuant to the Department's Administrative Regulation 300, upon approval of the hiring packet, the Department Personnel Division shall issue a contingent offer of employment.

1.4 The applicant must sign the alcohol and drug testing consent form prior to testing. Should the applicant refuse to sign the form or take the test, the applicant should be advised their refusal will constitute withdrawal of the job offer

1.5 Screening tests for controlled substances will be conducted by the contracted medical laboratory in accordance with standards and procedures established by the National Institute on Drug Abuse.

1.6 Test results will be forwarded to the Department Personnel Division within five working days.

1.7 The Department may consider the results of the screening test when determining whether to employ an applicant. If the results indicate the presence of a controlled substance the appointing authority shall not hire the applicant unless he provides, within 72 hours after being requested by the appointing authority, proof that he had taken the controlled substance as directed pursuant to a lawful prescription issued in his name.

1.8 Should a screening test indicate the presence of a controlled substance, the Department Personnel Division shall notify the applicant tested and provide an opportunity to have the same sample tested at their-own expense by a laboratory of his choice certified by the National Institute on Drug Abuse.

1.9 The results of the screening test are confidential and will be securely maintained by the Department Personnel Division.

### **349.03 ALCOHOL AND DRUG TESTING FOR EMPLOYEES**

#### **1.1 Alcohol Testing**

1.1.1 The Shift Supervisor, Warden, or Division Head shall determine the need for alcohol and/or drug testing of employees based on objective facts, examples of which are contained within the Report Form for Suspected Alcohol/Drug Impairment (TS-77).

1.1.1.1 Copies may be obtained from the Department Personnel Division.

1.1.2 The employee must be informed of the specific facts supporting the belief and a written record of the specific facts must be prepared on the report form.

1.1.3 An Alcohol/Drug Testing Consent Form (TS-76) must be completed prior to testing.

1.1.3.1 Copies may be obtained from the Department Personnel Division.

1.1.4 The employee should be advised whether they will be tested for alcohol, drugs or both.

1.1.5 The employee must sign the alcohol and drug testing consent form. Should the employee refuse to sign the form or take the test, the employee should be advised their refusal may result in dismissal. Such refusal should be noted on the form and witnessed.

1.1.5.1 The original of the form is retained by the Department Personnel Division, a copy should be given to the employee, and a copy is delivered to the collection site.

1.1.5.2 Arrangements should be made for the safe transportation of the employee to their home. Should they insist on driving home, the employee should be advised the Nevada Highway Patrol or other local law enforcement personnel will be notified.

1.1.6 Once the employee signs the form, it is the responsibility of the Shift Supervisor, Warden, or Division Head to provide transportation and accompany the employee to the collection site.

1.1.6.1 The Nevada Highway Patrol may be contacted to provide a preliminary breath test. A confirmatory breath test must be conducted immediately after receipt of a positive preliminary test.

1.1.6.2 Transportation may be provided by the Nevada Highway Patrol for confirmatory tests for alcohol and assistance in transporting the employee to the test site for controlled substances and then home.

1.1.6.3 Confirmatory test sites for alcohol testing must be performed at one of the locations designated. The list of breath machines located within the State of Nevada can be found as an attachment to this administrative regulation, as Confirmatory Test Sites For Alcohol Testing.

1.1.6.4 The Alcohol/Drug Test Consent Form (TS-76) and the Employee Breath Test For Alcohol Intoxilyzer 5000 Check List (TS-69) must be provided.

1.1.7 An employee must not have a concentration of alcohol in his breath greater than .01 gram by weight of alcohol per 210 liters of his breath while on duty.

1.1.8 Should a screening test indicate that the concentration of alcohol is greater than .01 gram the employee will be subject to disciplinary action.

## 1.2 Drug Testing

1.2.1 Screening tests for controlled substances will be conducted by the contracted medical laboratory in accordance with standards and procedures established by the National Institute on Drug Abuse.

1.2.2 The procedure outlined under 1.1 regarding completion of the Report Form for Suspected Alcohol/Drug Impairment (TS-77) and the Alcohol/Drug Testing Consent Form (TS-76), must be followed.

1.2.3 The employee should be advised when completing the form that pertinent information relevant to medication taken by the employee should be noted on the form and will be considered by the Medical Review Officer when assessing a positive test.

1.2.4 The Shift Supervisor, Warden, or Division Head must arrange transportation and accompany the employee to the collection site. A list of collection sites can be found as an attachment to this administrative regulation, as Collection Sites For Controlled Substances Testing.

1.2.5 After an employee submits to a screening test to detect the general presence of a controlled substance, the employee should be transported home.

1.2.6 At the discretion of the appointing authority, the employee may be placed on administrative leave with pay pending the results of the screening test.

1.2.7 Test results will be forwarded to the Department Personnel Officer within 72 hours.

1.2.8 The Department Personnel Officer must provide the employee with written results of their screening test within 3 working days of notice of the results.

1.2.8.1 The employee shall have an opportunity to provide proof, within 72 hours, that the controlled substance was directed pursuant to a lawful prescription issues in the same name.

1.2.8.2 The employee shall also be provided an opportunity to have the same sample tested by a laboratory of their choice and at their expense.

1.2.9 An employee who tests positive for a controlled substance shall be subject to disciplinary action.

## REFERENCES

ACA Standard 3-4061

## ATTACHMENTS

POLICY STATEMENT ALCOHOL/DRUG-FREE WORKPLACE  
AND ACKNOWLEDGEMENT (TS-58)

REPORT FORM FOR SUSPECTED ALCOHOL/DRUG IMPAIRMENT (TS-77)

ALCOHOL/DRUG TEST CONSENT FORM (DOC-1014)

EMPLOYEE BREATH TEST FOR ALCOHOL INTOXILYZER 5000 CHECK LIST

COLLECTION SITES FOR CONTROLLED SUBSTANCES TESTING

CONFIRMATORY TEST SITES FOR ALCOHOL TESTING

TOXICOLOGY REQUEST FORM

CLASSES APPROVED FOR APPLICANT DRUG TESTING

\_\_\_\_\_  
Jackie Crawford, Director

\_\_\_\_\_  
Date

**CONFIDENTIAL**

\_\_\_\_\_  
Yes

XX  
No

**THIS PROCEDURE SUPERSEDES ALL PRIOR WRITTEN PROCEDURES ON THIS SPECIFIC SUBJECT.**